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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ASETEK HOLDINGS, INC. and ASETEK A/S,

Plaintiffs,

v.

COOLIT SYSTEMS INC.,

Defendant.

CASE NO. 3:12-CV-04498-EMC

**STIPULATED REQUEST TO MODIFY
THE PARTIAL SUMMARY
JUDGMENT SUPPLEMENTAL
DISCOVERY AND BRIEFING
SCHEDULE;
[PROPOSED] ORDER**

1 On October 11, 2013, the Court issued an Order denying in part and deferring in part
2 CoolIT's Motion for Partial Summary Judgment to Prevent Asetek's Double Recovery of
3 Damages And, in the Alternative, for Patent Exhaustion. Dkt. 135. In its Order, the Court
4 deferred, under Rule 56(d), deciding the issue of whether partial summary judgment was
5 appropriate based on CoolIT's asserted "have made" rights under the licensing agreement
6 because Asetek had not had an opportunity to test the claims made in support of CoolIT's reply
7 brief by its reply declarant Geoff Lyon. *Id.* at 9. The Court Ordered that Asetek would have
8 until November 1, 2013, to take narrowly focused discovery on the "have made" rights issue,
9 Asetek would file a supplemental brief by November 6, 2013, and CoolIT would file a
10 responsive brief by November 13, 2013. *Id.* at 10.

11 The parties have met and conferred regarding the supplemental discovery ordered by the
12 Court. CoolIT has advised that its reply declarant Mr. Lyon is traveling abroad and will not
13 return until November 1, the final day for Asetek to conduct discovery pursuant to the Court's
14 Order. Asetek has also requested that CoolIT produce additional documents in response to
15 Asetek's previously served document requests, and expects to serve interrogatories directed to
16 this issue today. In addition, the parties are still in the time-consuming process of preparing
17 claim construction reply briefs and preparing for the tutorial and claim construction hearing in
18 November. For all these reasons, Asetek has requested, and CoolIT does not oppose, a stipulated
19 extension to continue the discovery and briefing deadlines in the Court's October 11 Order.

20 Accordingly, the parties respectfully stipulate, with the Court's permission, to extend the
21 deadlines by approximately forty-five days (with additional time for CoolIT's responsive brief
22 over the holidays), so that the deadline for completing supplemental discovery would be
23 extended from November 1, 2013 up to and including December 16, 2013, the deadline for
24 Asetek to submit a supplemental brief from November 6, 2013 up to and including December 23,
25 2013, and the deadline for CoolIT to submit a responsive brief from November 13, 2013, up to
26 an including January 6, 2014. The requested extension will not interfere with any other
27 deadlines currently set by this Court.
28

1 By his signature below, counsel for Plaintiff Asetek attests that counsel for Defendant
2 CoolIT concurs in the filing of this document.

3
4 Dated: October 25, 2013

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP

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6 By: /s/ Robert F. McCauley
Robert F. McCauley

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8 Attorneys for Plaintiffs
Asetek A/S and Asetek Holdings, Inc.

9
10 Dated: October 25, 2013

BLANK ROME LLP

11
12 By: /s/ Joel Dion
Joel Dion

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14 Attorneys for Defendant
CoolIT Systems, Inc.

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION OF THE PARTIES, the Stipulation is GRANTED.

The discovery and briefing schedule set forth in the Court' October 11, 2013 Order (Dkt .135) shall be modified such that Asetek shall have until December 16, 2013 to conduct narrowly focused discovery on the "have made" rights issue, Asetek shall have until December 23, 2013 to file a supplemental brief, and CoolIT shall have until January 6, 2014, to file a responsive supplemental brief.

IT IS SO ORDERED.

Dated: October 28, 2013



The Honorable Edward M. Chen
United States District Judge
Northern District of California